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JAN 29 1997

January 28, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street NW
Washington, D.C. 20554

Re: CC Docket Nos. 96-262, 94-1, 91-213, and 96-263, Notice of Proposed Rulemaking, In the Matter of Access Carge Reform

Dear Mr. Caton:

Enclosed please find for filing in the above captioned proceeding, an original and twelve copies of the comments of the Alabama Public Service Commission.

Please indicate your receipt of this filing on the additional copy and return to the undersigned in the enclosed self-addressed, postage prepaid, envelope. Thank you.

Respectfully,

Mary Newmeyer

Mary E. Newmeyer
Federal Affairs Adviser

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
Access Charge Reform	)	**CC Docket No. 96-262**
Price Cap Performance Review for Local Exchange Carriers	)	**CC Docket No. 94-1**
Transport Rate Structure and Pricing	)	**CC Docket No. 91-213**
Usage of the Public Switched Network by Information Service and Internet Access Providers	)	**CC Docket No. 96-263**

COMMENTS OF THE
ALABAMA PUBLIC SERVICE COMMISSION

I. Introduction

In its Notice of Proposed Rulemaking (Notice), Third Report and Order, and Notice of Inquiry adopted on December 23, 1996,[1] the Federal Communications Commission (FCC or Commission) initiated a rulemaking to consider and implement regulatory changes to reform its system of interstate access charges to make them compatible with the competitive framework of the federal Telecommunications Act of 1996 (96 Act)[2] and with state actions to open local exchange networks

[1] *In the Matter of Access Charge Reform*, CC Docket No. 96-262, *In the Matter of Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, *In the Matter of Transport Rate Structure and Pricing*, CC Docket No. 91-213, and *In the Matter of Usage of the Public Switched Network by Information Service and Internet Access Providers*, Notice of Proposed Rulemaking, Third Report and Order, and Notice of Inquiry, FCC 96-488 (December 23, 1996).

[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (to be codified at 47 U.S.C. §§ 151 et seq.).

to competition. The Alabama Public Service Commission (Alabama PSC), having been given general regulatory authority over public utilities within our jurisdiction in Alabama, hereby submits these Comments on access charge reform issues.

II. Background

The FCC tentatively concludes that several provisions in Part 69 of their rules compel incumbent LECs to impose charges for access services in a manner that does not accurately reflect the way those ILECs incur the costs of providing those services. For example, the costs associated with the local loop are generally non-traffic-sensitive (NTS), but the rules require incumbent LECs to recover a portion of those costs through per-minute CCL charges. Similarly, at least some portion of the costs of local switching is NTS, but the rules require incumbent LECs to recover all local switching costs through per-minute charges. In these and other cases, the rate structure rules do not send accurate pricing signals to customers, and consequently, encourage inefficient use of telecommunications services. These inaccurate pricing signals also encourage uneconomic bypass of incumbent LEC facilities and could very well skew or limit the development of competition in the markets for telecommunication services. Furthermore, these rates may not be sustainable in the long run if unbundled network elements are made available at cost based prices and used to provide exchange access services. [3]

The FCC proposes to revise their rate structure requirements for switched access service and have determined that establishing more economically rational rate structure rules is a necessary first step

[3] Notice, ¶55.

in the new pro-competitive era. The FCC seeks through these changes to establish rate structures for interstate access services that send more accurate pricing signals to both consumers and competitors. The FCC invites comment on proposals for rate structure rule changes to be applicable to all price cap incumbent LECs. Specifically, the Notice invites comment on rate structure rule changes for common line, local switching, and transport; a number of proposals for phasing out the transport interconnection charge; and on establishing rate structure rules for SS7 signaling services.[4]

The Alabama PSC shares the FCC's concerns that some of the present provisions in Part 69 of the FCC's access charge rules impose charges for access services in a manner that does not accurately reflect the way costs are incurred for providing the services. The present structures in some cases do not send accurate pricing signals and may encourage inefficient use of telecommunications service. We also recognize that the present structure may skew or limit the development of competition and may not be sustainable in the new environment.

The Alabama PSC began addressing some of its concerns with the existing access charge structure in generic Local Competition and Price Cap proceedings conducted during 1995. Those proceedings culminated in an order entered on September 20, 1995, which set forth a schedule of rate rebalancing measures designed to decrease existing intrastate access charge rates while increasing local service rates over a transition period of five years. While we address mainly the rate issues in our September 1995 order, we recognize that the noted problems with the existing access charge structure must also be addressed. We offer the following comments in response to some of the issues raised in the FCC's Notice.

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[4] Notice, ¶56.

III. Discussion

A. Rate Structure Modifications:

1. Common Line

Common line costs are non-traffic sensitive costs associated with the line connecting the end user's premises with the local switch. A portion of these costs is recovered from end users through the Subscriber Line Charge (SLC) which is capped at actual costs or $3.50 for residential and single-line business and $6.00 for multi-line business. The remaining portion is recovered through a per-minute rate charged to access customers (CCL).

(a) Carrier Common Line (CCL)

The FCC invited comment on alternative methods of recovering carrier common line costs so that price cap LECs are no longer required to recover any of the NTS costs of the loop from IXCs on a traffic sensitive basis. The Alabama PSC supports the adoption of a flat-rated alternative for recovering costs associated with the CCL.

The FCC invited comments on a number of alternative methods of recovering the CCL charge, however, there was a limited description of the alternative methods in the Notice. This makes it difficult to firmly recommend one specific alternative. We will, therefore, provide our views on the alternative methods included in the Notice but will not recommend adoption of a specific method at this time.

Any alternative method ultimately chosen by the FCC should have a rate structure that is competitively neutral among access customers. It should be applied to a customer base which includes all access customers and excludes end-user customers. The application of the rate structure should be auditable; avoid reliance upon self-reporting mechanisms for determining the application of the rates; and, be administratively simple.

The two flat rate per-line proposed alternatives in the Notice raise definite concerns for the Alabama PSC. The allocation of the charge on a customer's presubscribed interexchange carrier (PIC) basis would be administratively easy, but it would increase pressure to pass the charge directly through to specific consumers. Residential customers with low volume usage and fewer competitive choices could have significant monthly rate increases as a result. Additionally, the direct billing of customers who elect not to choose a PIC is administratively cumbersome and results in the billing of access customers costs to non-access customers. In the new competitive environment, IXCs and other access customers may not choose to pass common line costs through to end user customers in the form of higher rates. We believe the level of competition in the marketplace should determine if and how any, some, or all common line costs are passed through, rather than the adoption of an access rate structure which assures that these costs are passed through to end user customers.

The proposed bulk billing alternative also raises concerns because it would most likely be based on percent interstate usage ratios (PIUs) reported by access customers. This methodology raises past and continuing concerns where significant differences exist between interstate and intrastate access rate levels. Both the FCC and state commissions have spent significant resources investigating the accuracy of the PIU reports. Any alternative that relies on self-reporting by the an access customer to determine the amount billed to the access customer should be avoided.

The capacity charge alternative and trunk port alternative have some merit; however, the capacity charge alternative may exclude situations where trunks are procured from an alternative access provider not subject to the revised access rate structure. Thus, an access customer could obtain access from one source and trunks from another and not be assessed a charge for access. The trunk port charge alternative appears to exclude line side connections.

The proposed trunk port charge and line port charge alternative appears to have the most merit at this point. It is competitively neutral; is applied to the appropriate customer base; avoids self reporting; is auditable; and, should be administratively simple. This alternative appears to be the most appropriate method provided in the Notice, but as stated earlier, there is not enough information provided in the Notice to make a firm recommendation at this point.

(b). Subscriber Line Charge

The FCC seeks comment on its proposal to increase the cap on the SLC for the second and additional lines for residential customers, and for all lines for multi-line business customers, to the per-line loop costs assigned to the interstate jurisdiction.[5] The Notice further requests comment on whether ILECs should be permitted or required to deaverage SLCs as a part of the baseline rate structure that would be imposed on all price-cap ILECs.

The Alabama PSC opposes any plan that would increase or eliminate the cap on the SLC. We maintain the same opposition to the imposition and increases in SLC as we have expressed in prior proceedings. We continue to oppose the recovery of common line costs assigned to the interstate jurisdiction through the imposition of flat rate charges to captive subscribers who may or may not use interstate services.

The Alabama PSC believes that applying one charge for the primary residential connection and a different charge for any additional lines would be administratively burdensome and difficult.

[5] Notice, ¶65.

Additionally, it would create customer confusion and frustration.

2. Local Switching Costs

The local switch connects a call coming in on one line or trunk to another line or trunk connected to the switch. A local switch consists of line and trunk cards, and an analog or digital switching system. Line cards provide interfaces between subscriber lines and the switch. Trunk cards or "ports" provide interfaces between the switch and interoffice trunks. Because line cards, as well as trunk cards, are deployed within the central office, they are accounted for in the switching accounts of the Uniform System of Accounts (USOA). These costs are therefore included in the switching category for separations and cost allocation purposes. The central processing portion of the switch performs the routing function based on the telephone numbers dialed by the end user placing the call.[6]

Currently, Section 69.106 of the FCC rules requires incumbent LECs to charge per-minute rates for local switching. The FCC asks for comment on establishing a flat-rate element for non-traffic sensitive (NTS) local switching costs. Certain parts of the switch, i.e. line cards, line side ports and trunk ports, are generally dedicated to one particular customer. Because of this dedication, there is no loss of available line port capacity to other users when a customer is using the port. This usage does not tie up capacity otherwise usable by other customers, therefore, the cost should be recovered on a flat-rate, rather than on a usage-sensitive basis.

The Alabama PSC agrees with the FCC's contention that a portion of local switching costs do not vary with usage and should be recovered through a flat rate. We support the FCC's proposal to

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[6] Notice, ¶71.

establish a flat rate element for NTS local switching costs. The Alabama PSC generally believes that to the extent possible, rates should be set to reflect the manner in which the costs are incurred. Accurate price signals are necessary to ensure the most efficient utilization of the network. We, therefore, support the recovery of line cards, line side ports and trunk ports for dedicated service on a flat rate basis instead of the current embedded minutes of use basis.

The FCC also invites comment on whether or not call setup charges should be developed for usage-sensitive switching and whether this charge should be applied to all call attempts or only call completions. [7] As stated earlier, the Alabama PSC supports the principle that rates should be set to reflect the way costs are incurred. We can support a call set-up charge rate element if the FCC determines it better reflects the costs as incurred. While we believe such a charge ideally should apply to both completed calls and non-completed calls, we recognize there may be some considerations that may make it too burdensome to apply to all calls. The definition of a "call attempt" for example will certainly raise a debate. An incomplete call attempt could occur when the phone on the originating end is off-hook only temporarily with no dialing taking place or other scenarios where parties would differ over whether or not each one is actually a call attempt. Another consideration would be the work associated with measuring the number of incomplete call attempts and determining the identity of the end user who made the attempt. The Alabama PSC believes the cost, including consumer confusion, of beginning to bill for incomplete call attempts may outweigh the efficiencies gained.

3. Transport

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[7] Notice, ¶76.

Transport service is the component of interstate switched access service corresponding to the transmission and switching of traffic between incumbent LEC end offices and IXC POPs. Part 69 of the FCC's rules requires incumbent LECs to develop charges for transport service that may not reflect in some cases the manner in which they incur the costs of providing these services.[8] Transport services include entrance facilities, direct-trunked transport services, and tandem-switched transport services.

Under current FCC rules, incumbent LECs are required to establish flat rates for: (1) "entrance facilities," transport service from the IXC POP to the SWC, and (2) "direct-trunked transport," transport service from a SWC to an end office on dedicated facilities without switching at a tandem switch.[9] The FCC seeks comment on its tentative conclusion that rates for entrance facilities and direct-trunked transport service should be flat- rated because these transport facilities are dedicated to individual customers.[10]

The Alabama PSC agrees with the FCC's tentative conclusion that these rates should be flat-rated. We agree that these facilities dedicated to individual customers should be priced on a flat rate basis whenever possible.

The FCC presents several options for the rate structure associated with tandem-switched transport service facilities. The Alabama PSC recognizes the importance of these facilities and the rate structure issues raised in the Notice, but we are not prepared to address the issue at this time. We

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[8] Notice, ¶80.

[9] Notice, ¶81.

[10] Notice, ¶86.

reserve our right to address these issues in our reply comments in this proceeding.

4. Transport Interconnection Charge (TIC)

The transport interconnection charge (TIC) is a per-minute charge assessed on all switched access minutes, including those of competitors that interconnect with the ILEC's switched access network through expanded interconnection. In its *First Transport Order*, the FCC adopted an interim rate structure which consisted of a flat-rated entrance facilities and direct-trunked charge, and a usage-based tandem-switched transport charge. The interim rate structure also established a transitional make-whole revenue element, namely, the (TIC) that initially recovered the difference between the revenues from the new facility-based rates under the restructure and the revenues that would have been realized under the pre-existing "equal charge rule". The TIC was intended as a transitional measure that initially made the transport rate restructure revenue neutral for ILECs and reduced any harmful interim effects on small IXCs caused by the restructuring of transport rates. Approximately 70 percent of incumbent LEC transport revenues are generated through TIC charges, or approximately \$2.9 billion out of \$4.0 billion in transport revenues.[11]

It is obvious that a serious pricing distortion exists when you compare the revenue produced by the TIC in relation to the revenue produced by the other transport elements. The TIC is founded on a "make-whole" revenue calculation that cannot be sustained under the new competitive pressures. The TIC represents precisely the type of implicit subsidy mechanism that must be eliminated under the 96 Act. The Notice offers four major approaches to resolving the TIC dilemma: allowing the ILECs significant pricing flexibility to address the problem; extensively revising the TIC through the use of detailed cost analysis; a combination of the first two approaches where some costs would be

11 Notice, ¶96

reassigned and other would be phased out; and finally phasing out all of the TIC costs.[12]

The Alabama PSC does not have the data and analytical support to offer a detailed solution to the FCC on this difficult issue. In general, however, the Alabama PSC could support a plan resembling the FCC's third option, in which costs would be reassigned to transport facility elements based cost studies to correct identifiable misallocations. The costs associated with the remaining revenue shortfall, currently recovered through the TIC, should be shifted to a specifically identified separate fund or account to be recovered on a competitively-neutral basis and phased out over a reasonable set period of time. The FCC should recognize any increased levels of universal service support in a reduction of the TIC amount that is earmarked to be phased out. There needs to be assurance that the ILECs do not over-recover their costs through the reform of the access charge structure and the revisions to the high cost fund qualifications in the Universal Service Fund.

B. Approaches to Access Reform and Deregulation

In sections IV through VI, of the Notice, the FCC outlines two alternative approaches to access reform: a market-based approach and a more prescriptive approach. The FCC requests comment on numerous aspects relating to both approaches.

Under the market-based approach, the FCC proposes to allow marketplace pressures to move interstate access prices to competitive levels. This approach could be implemented incrementally, with the first phase being the elimination of certain regulatory constraints as incumbent price cap LECs demonstrate through credible, verifiable evidence that the conditions necessary for efficient local

[12] Notice, ¶¶112-118.

competition to develop in their service areas exist. Then, as incumbent LECs show that competition has emerged, additional regulatory constraints, including mandatory rate structures, would be eliminated to allow those LECs to adjust their interstate access rates. Finally, when substantial competition has developed, price regulation would be eliminated.[13]

The second approach the FCC outlines proposes a prescriptive method under which the FCC would require incumbent LECs to move their prices to specified levels and allow the LECs limited pricing flexibility until they can demonstrate they face actual competition for access.

The FCC stated in the Notice that their overriding goal in this proceeding is to adopt changes to the existing access charge rules "that will foster competition for these services and eventually enable marketplace forces to eliminate the need for price regulation of these services."[14] The Alabama PSC understands this goal and agrees that is the ultimate goal we should all strive to achieve. We are concerned , however, that immediate implementation of the market-based proposal will not result in achieving that goal. We believe there needs to be a transition period to a marketplace solution.

The Alabama PSC advocates the use of a prescriptive approach initially, with a transition to a market-based approach when true competition exists. During this transition, access charge rates should be designed to remove the implicit subsidies to universal service embodied in the access charge system as required by the 96 Act. We are concerned that the market-based approach proposed in the Notice will not eliminate implicit subsidies or result in access rates based on economic costs as quickly as desired. We agree that implementation of the market-based approach immediately,

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[13] Notice, ¶140.

[14] Notice, ¶140.

before true competition develops, may allow ILECs to assess inflated access charges.

The Alabama PSC advocates the use of the prescriptive approach initially, with a gradual transition to a market-based approach in those markets where actual competition exists. The FCC should not mandate any specific date for a cut-over to market-based rates. Actual competition, not "potential competition," should determine when that transition to market-based rates is appropriate. It is unrealistic to believe that all services and geographic areas will become competitive simultaneously. We, therefore, urge the FCC to consider the impact of the market-based approach on the less/non competitive services and areas served by the ILEC. Some mechanism needs to be established such as price floors for competitive situations, accompanied by rate caps or rate linkage for less competitive situations before a market-based approach is actually implemented.

C. Transition Issues

The FCC seeks comment on various transition issues. Specifically, the Notice seeks comment on the manner in which the universal service support amounts attributable to the interstate jurisdiction should reduce interstate access rates. The FCC also addresses issues relating to the potential difference between the revenues that incumbent LECs generate from current interstate access charges and the revenues that revised access charges are likely to generate. The FCC also seeks comment on both the estimated magnitude of that difference and the extent to which alternative methods of recovery of that difference should be permitted.

1. Universal Service Issues

The FCC recognizes that, because of the role that access charges have played in funding and maintaining universal service, it is critical to implement changes in the access charge system together with complementary changes in the universal service system because circumstances under which incumbent LECs could be compensated twice for providing universal service may exist.[15] The Alabama PSC shares the concerns of the FCC that access charge reform must be implemented carefully along with universal service revisions in order to ensure that no double recovery occurs.

The Alabama PSC understands the FCC's proposal to make a downward exogenous cost adjustment to reflect any revenues received from increases in universal service support is proposed to avoid any double recovery of costs. We do have concerns, however, that such an adjustment will be the first instance in which universal support funds would be used to offset interstate rates. The present universal support system was created to be applied to intrastate services. The proposal will divert funds traditionally used to support intrastate high costs. Such a shift in funds should only be accomplished through a recommendation formulated by a federal-state joint board. If this proposal is adopted , a separate component is necessary within the universal service fund that will replace the explicit subsidy reflected in the common line elements of interstate access. Separate components for both high-cost assistance for intrastate services and a specifically identified component for interstate common cost recovery will better protect the needs of both jurisdictions.

2. Treatment of Any Remaining Embedded Costs Allocated to the Interstate Jurisdiction

The FCC states in the Notice that current interstate access service revenues permit recovery of the interstate portion of embedded costs, subject since 1991 to the constraints of price cap regulation. They believe that if all access services are priced based on forward-looking economic cost the revenues generated may be much smaller than revenues received today. The FCC asks parties to

[15] Notice, ¶244.

discuss, in light of the other reforms discussed in this proceeding and other developments pursuant to the 96 Act, the following issues: the amount and make-up of the difference between these amounts, whether recovery of the remaining interstate-allocated costs should be permitted, the lawfulness of a denial of such recovery, and possible recovery mechanisms.[16]

The FCC further states that some of the difference between the incumbent LECs' interstate-allocated embedded costs and forward-looking costs may be traced to past regulatory practices. For example, interstate access rates may exceed forward-looking economic cost, and thus produce some difference, because of misallocation of costs to the interstate jurisdiction.[17] Another possible regulatory cause of any difference between interstate-allocated embedded or accounting costs and forward-looking costs may be under-depreciation of incumbent LEC assets.[18]

Questions concerning jurisdictional cost allocations resound throughout this Notice on access charge reform. The FCC acknowledges that separations reform is a necessary corollary to reforming the federal access charge regime.[19] The issue of separations reform is again raised by the FCC in its proposed treatment of the TIC, where the FCC acknowledges the need to refer jurisdictional cost allocations to a federal-state joint board. The concerns raised about double recovery of costs through the universal service funding also raises jurisdictional costs allocations issues.

The beginning point for developing access charges is the total cost that has been assigned to the interstate jurisdiction through Part 36 of the FCC rules. We are concerned that the FCC seems to

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[16] Notice, ¶248.

[17] Notice, ¶249.

[18] Notice, ¶250.

[19] Notice, ¶6

reach a tentative conclusion regarding a "misallocation of costs to the interstate jurisdiction" in this proceeding without having the benefit of any jurisdictional cost allocation analysis or recommendation by a federal-state joint board on this key separations issue. The FCC has indicated that it intends to initiate a proceeding to address the separations issues raised by ILEC provision of unbundled network elements.[20]

The Alabama PSC strongly supports the need to immediately address all the issues related to jurisdictional separations arising from implementation of the 96 Act. The FCC acknowledges that it is required to refer jurisdictional cost allocations to the federal-state joint board. The development of competition in telecommunications requires a delicate balance among access charges, universal service and interconnection. This balance can not be reached unless the foundation on which all three rest is sound. That foundation is the jurisdiction allocation of costs. There are existing legal requirements that there be a reasonable allocation of costs between federal and state jurisdictions. The law clearly defines the method to reach that allocation. The Alabama PSC, therefore, strongly urges the FCC to proceed with referral of all jurisdictional separations issues identified in this proceeding, as well as other proceedings resulting from the 96 Act, to the federal-state joint board in CC Docket No. 80-286.

The Alabama PSC agrees that there may be a substantial difference between embedded costs and forward looking costs. We have not addressed the issue of the treatment of any differences between embedded costs and forward looking cost in Alabama at this time, therefore, we will not offer a recommendation to the FCC in this regard. We do suggest, however, that if the FCC determines that

[20] Notice, footnote 340.

all or a portion of the remaining embedded costs should be recovered in the interstate jurisdiction, that the recovery be made through a separately earmarked fund to avoid the continuation of implicit subsidies.

IV. Conclusion

The Alabama PSC commends the FCC on its diligence and hard work in pursuing the implementation of the requirements of the 1996 Act. We support the FCC's efforts to complete the work to put in place the actions necessary to promote competition in telecommunications markets. We offer the above comments in response to the FCC's request in the Notice. We reiterate our concerns regarding the importance of referring the jurisdiction cost allocations to a joint board in tandem with this proceeding. We understand the FCC's concerns regarding "possible misallocations of costs to the interstate jurisdiction", and likewise we are deeply concerned about any misallocation of cost and unjustified shifts of cost to the intrastate jurisdiction. Access charge reform should not result in shifting cost to local service and other intrastate markets for recovery.

Respectfully submitted,
Alabama Public Service Commission

By Mary Newmeyer

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